



# PUBLIC RECORDS MANUAL

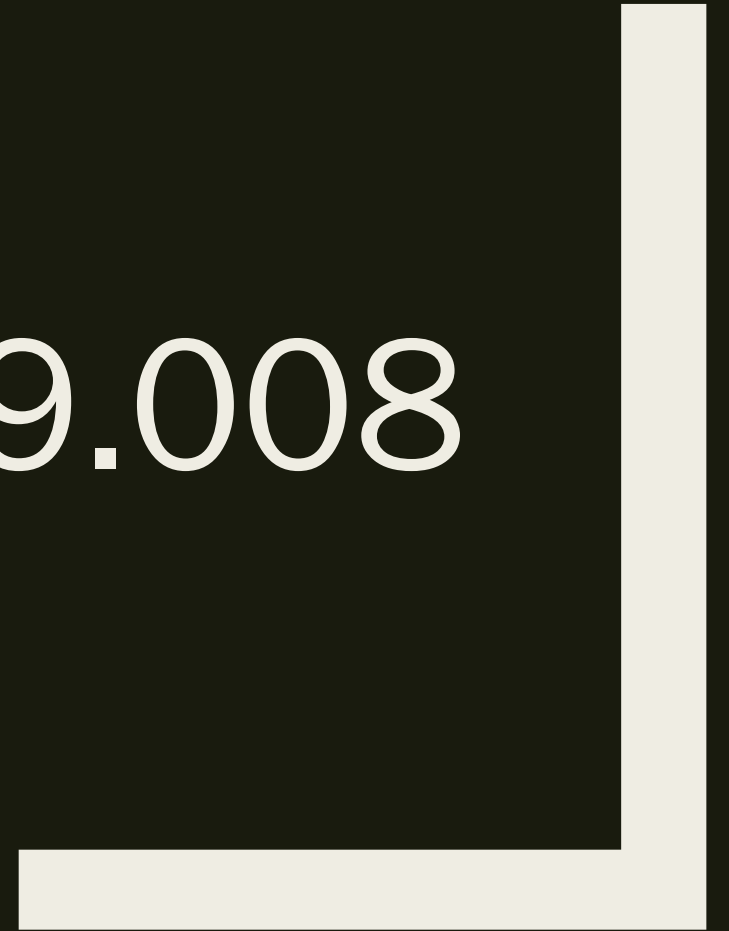
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Nevada State Library, Archives and Public Records (NSLAPR)

**February 1, 2017**

NRS 239.008



# Statute addresses

- Agencies of the Executive Department
- Assignment of Records Official
- Form for a Request
- Form for the Written Notice
- Regulations by NSLAPR/OAG
- Agency Website to access forms and procedures

# Regulations

NAC 239.860 thru NAC 239.869

# Definitions

- Readily Available
- Readily Available Medium

# Agency Website information

- Address and regular office hours
- Contact of records official
- List of fees
- How to request to inspect, copy or receive a copy of a public record
- A link to the request form

# Form for Request

- The name, address and telephone number of the person submitting the request
- The date of receipt
- A description of the public record that is sufficient to identify the record
- An indication of whether the person submitting the request wants to inspect, copy or receive a copy of the public record
- If the person wants to receive a copy of the public record, an indication of format and method of distribution
- Affirm:
  - *There may be a fee*
  - *Will receive a written estimate if the fee is more than \$25*
- Email address or fax number if such distribution method is requested

# If a Record does not exist

- No requirement to create a record



# Request

- Records Hold
- Claiming the request within 30 days

# Procedures Manual

- Nevada Public Records Act: A Manual for State Agencies
- [http://nsla.nv.gov/Records/Public\\_Records/Public\\_Records/](http://nsla.nv.gov/Records/Public_Records/Public_Records/)

**Nevada State Library, Archives and Public Records**

**Nevada Public Records Act:  
A Manual for State Agencies**

**Bulletin No. 3 rev.**

**State Records Program**



**2016**

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2016

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# Scope

- Agencies of the Executive Department

- *NRS 239.005(2) "Agency of the Executive Department" means an agency, board, commission, bureau, council, department, division, authority or other unit of the Executive Department of the State Government. The term does not include the Nevada System of Higher Education.*

- Not FOIA... NPRA

- If violating act, a deliberate concealment of public records may result in a risk of criminal conviction

- Good faith compliance

# Official Records

- Adequate and proper documentation of the organizational functions, policies, decisions, procedures, and essential transactions of the agency NRS 230.005(6)
- Protect the legal and financial rights of the government and of its citizens

# Retention & Disposition of Official Records

- NRS 230.080
- Systematic disposition of records according to the retention timetable.
- A planned activity – part of the agency's regular course of business.
- Haphazard or selective destruction of records may raise suspicion concerning the reliability and authenticity of the agency's record keeping system



KEEP  
CALM  
AND  
CALL

State Records

**775-684-3411**



# The Act makes it clear

- **NRS 239.083(4)**
- Failure to retain records in accordance with an approved schedule may result in a reprimand or in a more severe disciplinary action.

# Personal devices

- Official records on personal devices
- Personal records on state devices

# Public Records

- ...all public books and public records of a government entity, the contents of which are not otherwise declared by law to be confidential...
- If you are uncertain, then treat it as a public record

# Identifiable record

- A request should be for an identifiable record that exists at the time of the request
- Not required to organize data to create a record that doesn't exist at the time of the request
- Not required to provide access to records that were not identified within the request
- A request for general information is not a public records request

# Confidential Records

- Records official must know and understand the specific statutes which declare records of the agency to be confidential

# Agency Responsibilities

- Establish reasonable policy and procedures
- Be informed about public records and records management laws
- Appoint a records official
- Make a form for requesting public records easily available
- Treat all requesters uniformly
- Give to the requester all reasonable accommodations for inspection, including accommodations in accordance ADA requirements
- Provide an opportunity for individuals with disabilities to request public records in an alternative form

# Records Officer

- NRS 239.008
- Coordinate the agency's response to requests for access to public records
- Create agency procedures for public records requests
- Aware of all laws and regulations relating to official records, confidential records, and records retention requirements of the agency

# Policy

- Includes

- *Procedures for making a request*
- *Contact for public records official*
- *Response process*
- *Fee structure.*



# Form

- NAC 239.863
- Customize
- Make readily available

# Web site

- NRS 239.008
- Records Official
- Access procedures
- Public records request form
- Applicable fees

# RESPONDING TO A REQUEST



# Response

- Disclosure: Permit access to the record
- Redaction: Disclose the record in redacted form
  - *Deny in Part*
- Denial: Withhold the record completely
  - *Deny in Whole*

# Access

- Inspection
- Copy

# Redaction

- Redact, delete, conceal or separate” confidential information, release remainder
- Written denial notice for redaction

# Written Denial Notice

- A description of the redacted information
- The legal citation and text of the statute or other provision(s) regarding the basis for denying access

# Denial

- Requires law be interpreted liberally in favor of access
- Any exemption must be interpreted narrowly.



# Written Denial Notice

- A description of the withheld record(s)
- The legal citation and text of the statute or other provision(s) regarding the basis for denying access

# Posting

- Fees
  - *Actual costs*
- Deposits
- Waiving fees policy
- Extraordinary fee use policy

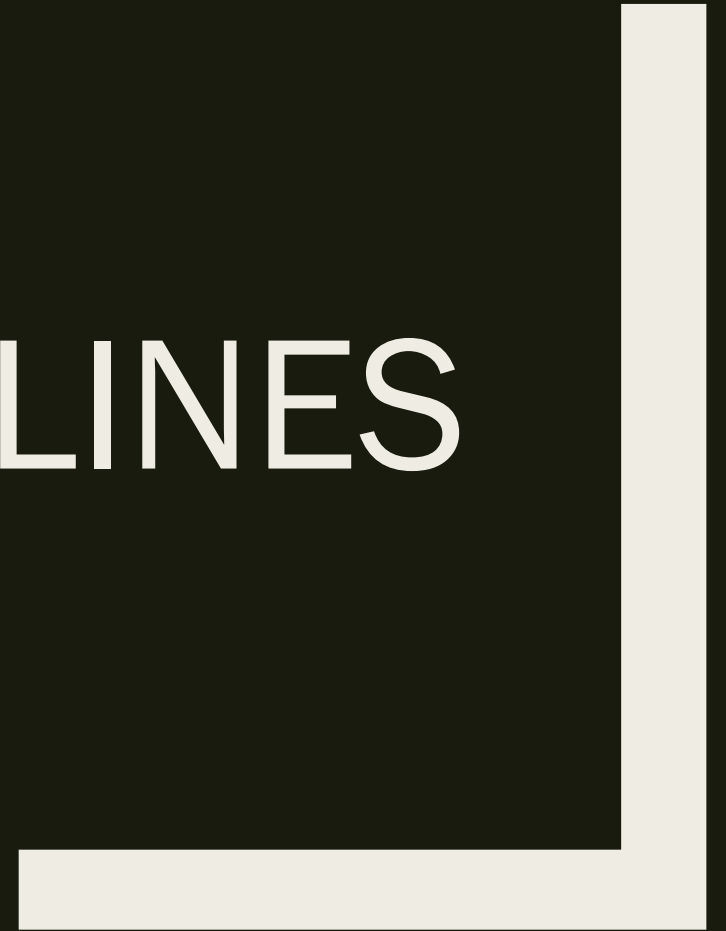
# Extraordinary Use Fee

- Not to exceed 50 cents per page
- Must be made in writing
- Must submit a written estimate of the fee before preparing the records

# Extraordinary Use Fee

- Policy
  - *Must be reasonable*
  - *Based on the cost that the agency actually incurs for the extraordinary use of personnel or technological resources*
  - *Not with the intent of excluding persons from access*
- A “busy office” is not an extraordinary situation.
- No statutory-defined time established for extraordinary use

DEADLINES



# Request Received

- Time is critical in responding to public records requests
- An agency should never delay a response time the basis that the office is too busy or that a key employee is unavailable

# Request Received – Day Zero

- The five-day response period starts with the first calendar day after the date of receipt

What's  
Next?



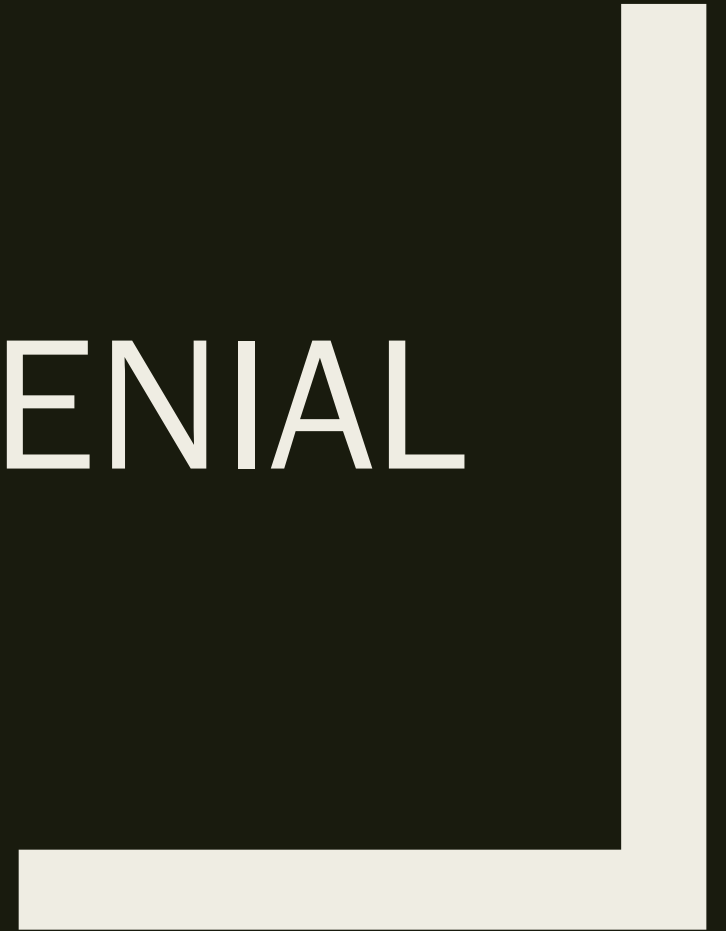
# Request Received – Day One to Day Five

1. Readily available records are made available
2. A written notice stating the agency does not have custody of the official record. The notice shall state the name and address of the appropriate agency.
3. A written notice stating the records are not available within this five-day period and the date and time the records will be made available.

# Request Received – Day One to Day Five

4. A written notice if
  - *a fee is required and the agency requires prepayment*
  - *the estimated fee exceeds \$25*
  - *it meets extraordinary use of personnel or technological resources*
5. A written notice stating the request for release is denied in part or in whole

APPEALING DENIAL

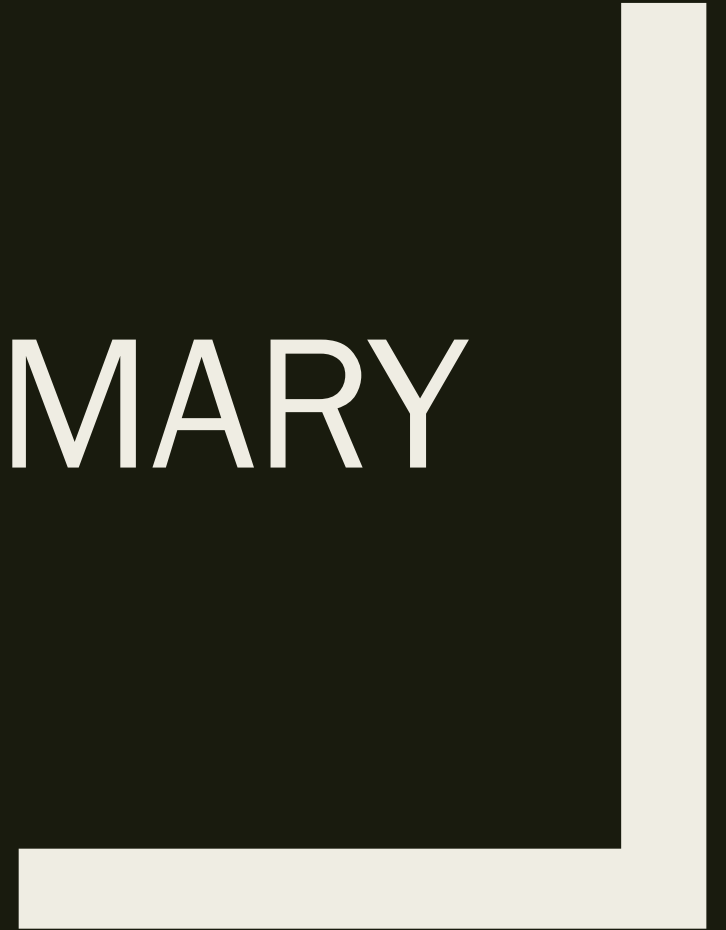


# District Court



Sixth Judicial District Court  
Humboldt County

# SUMMARY



# Summary

- The audience is executive branch agencies, boards and commissions.
- NRS does not define a public record.
- Confidential records are exempt from public records access.
- Records shall be organized and easily accessible, and retained according to the retention schedule.
- Public records requests must be for identifiable records.

# Summary

- Each agency shall develop a Public Records policy.
- Each agency shall appoint a records official
- Each agency shall post policy in an easily accessible location in the office and on the agency website
- Respond to a request within 5 business days following the date received.

